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SEP 01 2004

In re Application of : **OFFICE OF PETITIONS**
Orlowski, et al. : DECISION ON PETITION
Application No. 09/428,982 :
Filed: October 28, 1999 :
Atty. Dkt. No.: P3091 :
:

This is a decision on the petition renewed under 37 CFR 1.137(b), filed August 17, 2004, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)." This is not a final agency decision.

This application became abandoned September 6, 2003 for failure to timely reply to the final Office action re-mailed June 5, 2003. The final Office action set a three (3) month shortened statutory period of time for reply. No extensions of time in accordance with 37 CFR 1.136(a) were timely requested. Notice of Abandonment was mailed January 6, 2004. A petition under 37 CFR 1.137(a) was filed March 15, 2004 and dismissed July 8, 2004.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

The present petition lacks requirement (1) set forth above.

As to item (1), petitioner has failed to submit a proper response to the outstanding Office action. While an amendment was submitted March 15, 2004, the amendment failed to place the application in condition for allowance as indicated in the decision mailed July 8, 2004. Accordingly, any renewed petition must be accompanied by a proper response to the outstanding Office action. A response may be an amendment that places the application in condition for allowance, a request for continued examination (and appropriate fee), a Notice of Appeal (and appropriate fee), or a continuation application (and appropriate fee).

Further correspondence with respect to this matter should be addressed as follows:

By mail:

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(703) 872-9306

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Telephone inquiries concerning this matter may be directed to the undersigned at (703) 305-0310. Inquiries placed after September 27, 2004 may be directed to the undersigned at (571) 272-3205.



Alesia M. Brown
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